

SENATE BILL 849

By Kilby

AN ACT to amend Tennessee Code Annotated, Title 50,
relative to workers' compensation for employees
with occupational diseases covered by the Energy
Employees Occupational Illness Compensation
Program Act of 2000.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-302, is amended by redesignating the existing language of subsection (a) as subdivision (a)(1), by redesignating subsection (b) as subdivision (a)(2), and by adding the following as a new subsection (b):

(b)

(1) Occupational diseases involving a disease or condition covered by the Energy Employees Occupational Illness Compensation Program Act of 2000, parts (B), (D), or (E), shall be covered hereunder. An employee has an occupational disease within the meaning of this chapter if the disease or condition is a disease or condition covered by the Energy Employees Occupational Illness Compensation Program Act of 2000, parts (B), (D), or (E) that has developed to such an extent that it can be diagnosed as an occupational disease. In considering whether an employee has an occupational disease as defined by the Energy Employees Occupational Illness Compensation Program Act of 2000, parts (B), (D), or (E) and suffers a disability or dies therefrom, all the presumptions, criteria, and standards contained in or promulgated by reason of the Energy Employees Occupational Illness Compensation Program Act of 2000, specified as the basis for determining eligibility of applicants for benefits because of the disease or its effects, shall be used and be applicable under this chapter. Where in a proceeding under this chapter for benefits, it is determined that the

employee or the employee's dependents would be entitled to benefits under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended, the employee or the employee's dependents by reason of the determination shall be considered disabled from an occupational disease and its effects, under this chapter the same as if the employee, or the employee's dependents, established the right to recover benefits based upon disability from an occupational disease, or death by reason thereof under the laws of this state.

(2) Upon a finding or showing that an employee or an employee's dependents has received a positive determination pursuant to Part (B), (D), or (E) of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended, it shall be conclusively presumed that the illness or condition for which compensation is sought under the laws of this state is causally related to the employee's occupation and no employer shall be entitled to raise or rely upon the statutory defenses of notice, causation, or the statute of limitations in defense of such claims.

(3) Neither an employee, or an employee's dependents or beneficiaries, considered disabled from an occupational disease and its effects pursuant to this subsection (b), nor the employer of such an employee, shall be entitled either to make a claim pursuant to § 50-6-206 for benefits against, or to receive benefits pursuant to § 50-6-208 from the second illness fund.

(4) The provisions of this subsection (b) shall not apply to workers' compensation claims as defined in § 9-8-307(a)(1)(K), by a state employee as defined in § 8-42-101(3).

(5) The provisions of this subsection (b) shall not apply to workers' compensation claims by a municipal or county employee in those jurisdictions

where the governing body of the municipality or county has accepted the provisions of title 50, chapter 6, nor to any claims for injuries arising out of and in the course of employment by a municipal or county employee in those jurisdictions where the governing body of the municipality or county has not accepted or withdrawn from acceptance of the provisions of title 50, chapter 6.

(6) There shall be no award of, or entitlement to, medical benefits as defined by § 50-6-204, in claims brought under this section for past, present, or future medical diagnosis or treatment. Medical benefits for conditions covered herein are provided under the Energy Employees Occupational Illness Compensation Program Act of 2000, and this subsection is not intended to impact entitlement to those benefits.

(6) Notwithstanding any statute or law to the contrary, all claims made payable pursuant to this subsection shall not be included in the experience modification factors, as contemplated by the Tennessee Workers' Compensation Law at § 50-6-414, or elsewhere, for changes in the loss history of employers that are attributable to awards paid to an employee, or an employee's dependents or beneficiaries, for benefits under this subsection, to the extent that the affected employer is reimbursed or indemnified by the federal government for such benefits paid.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.